

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS**

UNITED STATES OF AMERICA

V.

4:07CR00086-03 JMM

KEVIN LAMAR GOFF

ORDER

Pending is the Petitioner's Motion to Vacate, Set Aside, or Correct a Sentence pursuant to 28 U.S.C. § 2255. The United States has responded.

On March 6, 2008, Petitioner pled guilty to Count One of the Indictment against him. He was sentenced by this Court on July 22, 2008 and Judgment was entered on the same day. Petitioner appealed to the Eighth Circuit Court of Appeals on August 4, 2008, and the Eighth Circuit affirmed the judgment of this Court on April 1, 2009. Petitioner filed the instant Motion on September 10, 2012, over three years after the Court of Appeals ruled on his appeal.

28 U.S.C. § 2255(f) provides a one year statute of limitations for motions filed pursuant to § 2255:

A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of--

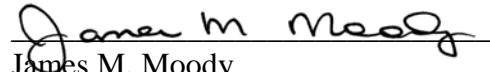
- (1) the date on which the judgment of conviction becomes final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

28 U.S.C. § 2255(f).

Petitioner's judgment of conviction became final on April 1, 2009. Plaintiff has failed to show that a governmental action impeded his effort to file a motion, that a new rule of constitutional law was recognized by the United States Supreme Court and made retroactive for purposes of collateral review, or that he could not have discovered the facts presented in his motion until a date within one year of September 10, 2012 when he filed this motion. Accordingly, Petitioner's Motion is barred by the statute of limitations.

The Motion to Vacate, Set Aside, or Correct a Sentence pursuant to 28 U.S.C. § 2255 (Docket # 917) is denied. Petitioner's Motion for Default Judgment (Docket # 943) is also denied.

IT IS SO ORDERED this 28th day of February, 2013.


James M. Moody
United States District Judge